Government of the District of Columbia
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: **The Honorable Vincent C. Gray**
Chair, Council of the District of Columbia

FROM: **Natwar M. Gandhi**
Chief Financial Officer

DATE: JUL -9 2007

SUBJECT: **Fiscal Impact Statement: "Center Leg Freeway (Interstate 395) Fee and Air Rights Disposition Emergency Approval Resolution of 2007"**

REFERENCE: **Approval of Resolution**

Conclusion

The proposed resolution approves a sole-source sale of property and air rights adjacent to and above the I-395 depressed highway between Massachusetts Avenue and E Street, NW which will net approximately $52 million.

The proposed resolution will have no fiscal impact on the proposed FY2008 budget and FY2008 through 2011 financial plan.

The proposal will result in a decline in net assets of the District of at least $52 million. The Fair Market Value of the disposition is reduced by approximately $9.8 million for an amount equal to a prior litigation judgment against the District. In addition, the District is reducing its assets by an amount equal to the value of the public benefits provided through affordable housing requirements in the legislation; the proposed developer estimates that reduction to be approximately $42.3 million, though it could be higher. Because the value of assets is not included in the District's annual budget, this reduction in value of the Districts assets does not directly impact the budget and financial plan.

Background

The resolution disposes of certain property and air rights adjacent to and above the I-395 depressed artery between Massachusetts Avenue and E Street, NW. Subject to an independent appraisal, the purchaser, Louis Dreyfus Property Group, will pay the District the Fair Market Value, less the amount of the District's current litigation judgment with The Washington Development Group (who had previously been approved to develop these air rights), less the cost of providing affordable housing on the site equal to one third of all residential units developed. The final purchase payment after these deductions can be no less than $30 million. If the affordable housing subsidy would reduce the price to less than $30 million, then the number of affordable units can be reduced, but to no less than 50 units.

The Office of the Attorney General is currently completing an independent appraisal to assess the fair market value of the fee and air rights being disposed.

The legislation reduces from the Fair Market Value to be paid for by the District the value of a judgment to The Washington Development Group. A judgment of $8,444,366 was given by the District of Columbia in Superior Court in January of 2004. Both sides of this litigation have appealed the original judgment, and no payment has been made pending resolution of the appeal. The Office of the Attorney General has reported that the District is likely to win this appeal. A payout for this judgment will include interest at 4 percent, resulting in a reduction in the Fair Market Value of approximately $9.8 million.

The legislation also requires a certain amount of affordable housing to be built on the site. The resolution requires 15% of all residential units to be affordable to households earning 60% Area Median Income (AMI) or less, and 15% of all residential units to be affordable to households earning 30% AMI or less. A homebuyer earning 30% of AMI can afford a housing unit of approximately $130,000, a homebuyer earning 60% of AMI can afford a housing unit of approximately $260,000. Neither the resolution nor the supporting documentation specify the exact deduction from Fair Market Value that the Developer will receive.

In particular, the resolution does not

- specify the costs of construction,
- specify whether the District's subsidy will be based on the developer's cost of construction or on the developer's expected sales price,
- whether the District will first consider any requirements that the District's Inclusionary Zoning, or other laws that the Developer would otherwise have to meet, before the affordable housing deduction is made.

Assuming the District pays the full difference between the price of a market-rate unit and the price of the affordable units, the deduction in value would be a subsidy of approximately $380,000 per unit for homebuyers earning 30% of AMI and $250,000 for homebuyers earning 60% of AMI. Depending on the final determination of Fair Market Value and the number of units finally built on the site, this could reduce the actual payment from the developer to the minimum required $30 million.

Finally, the resolution establishes a revolving fund to pay for the relocation of the Shared Computer Center currently located on the property. Up to $30 million in proceeds from

Finally, the resolution establishes a revolving fund to pay for the relocation of the Shared Computer Center currently located on the property. Up to $30 million in proceeds from the sale of the air rights will be placed into this revolving fund. The Office of the Chief Technology Officer (OCTO) estimates the costs to move the facility from its current site is $20.4 million. In addition, the annual increased cost to run the facility at a new site is approximately $2.38 million. The $30 million deposited into the revolving fund will be sufficient to pay for the costs of relocation and the first four years' increased operating costs. After that time, OCTO must budget for the additional operational costs.

Financial Plan Impact

The legislation is also expected to create a net loss in District assets of over $52 million. However, funds are sufficient in the proposed FY2008 budget and FY2008 – 2011 financial plan to implement this resolution.